

By: Huffman

S.B. No. 899

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to increasing the punishment for an offense committed  
3 against a person because of the person's status as a peace officer,  
4 a firefighter, or emergency medical services personnel.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Articles 6.08(a), (b), and (c), Code of Criminal  
7 Procedure, are amended to read as follows:

8 (a) At any proceeding in which the defendant appears in  
9 constitutional county court, statutory county court, or district  
10 court that is related to an offense under Title 5, Penal Code, or  
11 Section 28.02, 28.03, or 28.08, Penal Code, in which it is alleged  
12 that the defendant committed the offense for a purpose or reason  
13 [~~because of bias or prejudice as~~] described by Article 42.014, a  
14 person may request the court to render a protective order under  
15 Title 4, Family Code, for the protection of the person.

16 (b) The court shall render a protective order in the manner  
17 provided by Title 4, Family Code, if, in lieu of the finding that  
18 family violence occurred and is likely to occur in the future as  
19 required by Section 85.001, Family Code, the court finds that  
20 probable cause exists to believe that an offense under Title 5,  
21 Penal Code, or Section 28.02, 28.03, or 28.08, Penal Code,  
22 occurred, that the defendant committed the offense for a purpose or  
23 reason described by Article 42.014 [~~because of bias or prejudice~~],  
24 and that the nature of the scheme or course of conduct engaged in by

1 the defendant in the commission of the offense indicates that the  
2 defendant is likely to engage in the future in conduct prohibited by  
3 Title 5, Penal Code, or Section 28.02, 28.03, or 28.08, Penal Code,  
4 and committed for a purpose or reason described by Article 42.014  
5 [~~because of bias or prejudice~~].

6 (c) The procedure for the enforcement of a protective order  
7 under Title 4, Family Code, applies to the fullest extent  
8 practicable to the enforcement of a protective order under this  
9 article, including provisions relating to findings, contents,  
10 duration, warning, delivery, law enforcement duties, and  
11 modification, except that:

12 (1) the printed statement on the warning must refer to  
13 the prosecution of subsequent offenses committed for a purpose or  
14 reason described by Article 42.014 [~~because of bias or prejudice~~];

15 (2) the court shall require a constable to serve a  
16 protective order issued under this article; and

17 (3) the clerk of the court shall forward a copy of a  
18 protective order issued under this article to the Department of  
19 Public Safety with a designation indicating that the order was  
20 issued to prevent offenses committed for a purpose or reason  
21 described by Article 42.014 [~~because of bias or prejudice~~].

22 SECTION 2. Article 42.014, Code of Criminal Procedure, is  
23 amended by amending Subsection (a) and adding Subsection (d) to  
24 read as follows:

25 (a) In the trial of an offense under Title 5, Penal Code, or  
26 Section 28.02, 28.03, or 28.08, Penal Code, the judge shall make an  
27 affirmative finding of fact and enter the affirmative finding in

1 the judgment of the case if at the guilt or innocence phase of the  
2 trial, the judge or the jury, whichever is the trier of fact,  
3 determines beyond a reasonable doubt that the defendant  
4 intentionally selected the person against whom the offense was  
5 committed, or intentionally selected the person's property that was  
6 damaged or affected as a result of the offense, because of:

7 (1) the defendant's bias or prejudice against a group  
8 identified by race, color, disability, religion, national origin or  
9 ancestry, age, gender, or sexual preference; or

10 (2) the person's status as a peace officer, a  
11 firefighter, or emergency medical services personnel.

12 (d) In this article:

13 (1) "Emergency medical services personnel" has the  
14 meaning assigned by Section 773.003, Health and Safety Code.

15 (2) "Firefighter" means a person who is a paid or  
16 volunteer firefighter.

17 SECTION 3. Section 22.111, Government Code, is amended to  
18 read as follows:

19 Sec. 22.111. TRAINING FOR PROSECUTING ATTORNEYS RELATED TO  
20 PUNISHMENT ENHANCEMENT BECAUSE OF BIAS OR PREJUDICE. The court of  
21 criminal appeals shall provide to prosecuting attorneys training  
22 related to the use of Section 12.47, Penal Code, and Article 42.014,  
23 Code of Criminal Procedure, for enhancing punishment on a finding  
24 that an offense was committed for a purpose or reason described by  
25 ~~[because of the defendant's bias or prejudice as defined in]~~  
26 Article 42.014, Code of Criminal Procedure.

27 SECTION 4. Section 12.47, Penal Code, is amended to read as

1 follows:

2           Sec. 12.47. PENALTY IF OFFENSE COMMITTED BECAUSE OF BIAS OR  
3 PREJUDICE. (a) If an affirmative finding under Article 42.014,  
4 Code of Criminal Procedure, is made in the trial of an offense other  
5 than a first degree felony or a Class A misdemeanor, the punishment  
6 for the offense is increased to the punishment prescribed for the  
7 next highest category of offense. If the offense is a Class A  
8 misdemeanor, the minimum term of confinement for the offense is  
9 increased to 180 days.

10           **(b)** This section does not apply to the trial of:

11                   **(1)** an offense of injury to a disabled individual  
12 under Section [~~Sec.~~] 22.04, if the affirmative finding in the case  
13 under Article 42.014, Code of Criminal Procedure, shows that the  
14 defendant intentionally selected the victim because the victim was  
15 disabled; or

16                   **(2)** an offense for which the punishment is subject to  
17 enhancement based on the victim's status as a peace officer, a  
18 firefighter, or emergency medical services personnel.

19           **(c)** [~~(b)~~] The attorney general, if requested to do so by a  
20 prosecuting attorney, may assist the prosecuting attorney in the  
21 investigation or prosecution of an offense committed for a purpose  
22 or reason described by Article 42.014, Code of Criminal Procedure  
23 [~~because of bias or prejudice~~]. The attorney general shall  
24 designate one individual in the division of the attorney general's  
25 office that assists in the prosecution of criminal cases to  
26 coordinate responses to requests made under this subsection.

27           **(d)** In this section:

1           (1) "Emergency medical services personnel" and  
2 "firefighter" have the meanings assigned by Article 42.014, Code of  
3 Criminal Procedure.

4           (2) "Peace officer" has the meaning assigned by  
5 Article 2.12, Code of Criminal Procedure.

6           SECTION 5. Section 25.071(a), Penal Code, is amended to  
7 read as follows:

8           (a) A person commits an offense if, in violation of an order  
9 issued under Article 6.08, Code of Criminal Procedure, the person  
10 knowingly or intentionally:

11           (1) commits an offense under Title 5 or Section 28.02,  
12 28.03, or 28.08 and commits the offense for a purpose or reason  
13 ~~[because of bias or prejudice as]~~ described by Article 42.014, Code  
14 of Criminal Procedure;

15           (2) communicates:

16           (A) directly with a protected individual in a  
17 threatening or harassing manner;

18           (B) a threat through any person to a protected  
19 individual; or

20           (C) in any manner with the protected individual,  
21 if the order prohibits any communication with a protected  
22 individual; or

23           (3) goes to or near the residence or place of  
24 employment or business of a protected individual.

25           SECTION 6. The changes in law made by this Act apply only to  
26 an offense committed on or after the effective date of this Act. An  
27 offense committed before the effective date of this Act is governed

1 by the law in effect on the date the offense was committed, and the  
2 former law is continued in effect for that purpose. For purposes of  
3 this section, an offense was committed before the effective date of  
4 this Act if any element of the offense occurred before that date.

5 SECTION 7. This Act takes effect September 1, 2017.